

Executive Registry
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The Honorable Edward M. Levi
Attorney General of the United States
Department of Justice
Constitution Avenue and Tenth Street, N.W.
Washington, D.C. 20530

Dear Ed:

As you are aware, unauthorized disclosures of sensitive intelligence have reached epidemic proportions. In previous correspondence and in conversations with you and Mr. Kelley, I have expressed my concern over this matter and I am certain you share my apprehension. The Intelligence Community agencies have examined a number of potential remedial actions to solve, or at least abate, this problem. One of the most fundamental remedial actions, I believe, is an immediate and comprehensive investigation to determine the identity of those responsible for the unauthorized disclosures. Unfortunately, this is not possible today. While Intelligence Community security components react promptly to leaks within their limited spheres of authority, it is the Federal Bureau of Investigation (FBI) upon which we must rely for the extensive type of investigation required in these cases. It appears to me that the FBI is severely hampered by Department of Justice procedures in proceeding with cases of this variety.

I have been informed that before personnel of the FBI can conduct an investigation involving an unauthorized disclosure of classified information, they must obtain Department of Justice approval. I am advised that Department of Justice approval is predicated in each instance upon a determination that the compromised material will be declassified for prosecution purposes.

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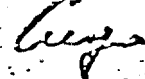
These procedures create a dilemma in which the more sensitive the unauthorized disclosure, the less likely it is that a swift, energetic investigation will be conducted. Obviously there will be instances in which it will be appropriate to declassify a document in order to prosecute. However, the decision to prosecute should be made only when it is to the net advantage of the U.S. Government to do so. In many cases, the declassification decision must be based in part on the facts of the leak, which cannot be known without an investigation. In cases where prosecution may not be desirable, the investigation may identify persons responsible for the leak so that administrative action can be taken. In some instances, although the identity of the person responsible for the leak may not be obtained, the investigation will nevertheless provide valuable insight into the vulnerabilities of our security procedures or ways to better protect our vital intelligence secrets.

Upon investigation it may be determined that a given leak may not be a prosecutable offense. In those cases, declassification decisions will not be involved. Knowledge of the facts and circumstances of the case together with the identity of the source of the leaks is still important.

I would appreciate your considering the initiation of more streamlined procedures which would enable the FBI to act promptly in investigating an unauthorized leak which is reported to the Bureau by any agency of the Intelligence Community. In particular, I suggest that the agency involved be given the option to defer the decision whether to declassify information involved until sufficient investigation has been conducted which would permit a fully-informed, rational determination. It is recognized that the decision to prosecute is a matter of discretion by the Department of Justice, taking into account a wide range of government interests, the rights of individuals, fairness, etc. The protection of intelligence sources and methods is one such interest of the government.

I would be very happy to meet with you personally on this matter, which I consider to be of most urgent interest to the Intelligence Community. Or, if you desire, I would welcome an opportunity for members of my Offices of General Counsel and Security to meet with your representatives to discuss new procedures in these cases.

Sincerely,



George Bush